

Mirant Corporation

Rebecca E. Kane  
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Via E-Mail and Overnight Mail



Rebecca E. Kane  
U.S. Environmental Protection Agency  
Ariel Rios Building (MC: 2222A)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

*Re: Comments of Mirant Corporation on EPA's Enforcement and Compliance  
History Online Web Site; 67 Federal Register 70079 (2002)*

Dear Ms. Kane:

On November 20, 2002, the Environmental Protection Agency (EPA) announced the availability of, and invited comments on, its pilot web site, Enforcement and Compliance History Online (ECHO). The publicly accessible site contains searchable, facility-level enforcement and compliance information and demographic data on facilities regulated under the Clean Air Act (CAA), the Clean Water Act (CWA), and the Resource Conservation and Recovery Act (RCRA). Mirant Corporation appreciates the opportunity to submit these comments to the EPA. Additionally, Mirant Corporation supports and agrees with those comments submitted by the Utility Air Regulatory Group (UARG) and the Utility Water Act Group (UWAG).

Mirant Corporation believes that unless significant revisions are made to ECHO to ensure the accuracy of the data and to preserve the security of the information available on the site that ECHO is not an appropriate information tool and should be shut down.

EPA has stated that ECHO will allow "anyone with access to the internet direct access to the current environmental compliance record of more than 800,000 regulated facilities nationwide."<sup>1</sup> Additionally, EPA stated that "now the public can monitor environmental compliance in communities, corporations can monitor compliance across facilities they own, and investors can more easily factor environmental performance into decisions."<sup>2</sup> However, for this to be true, the information contained on ECHO must be accurate, and it must be EPA's, not regulated industry's, obligation to ensure that inaccurate information is corrected quickly.

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<sup>1</sup> EPA, Environmental News (Nov. 18, 2002).

<sup>2</sup> ECHO, Frequently Asked Questions, <https://www.epa.gov/echo/faq.html>.

As presented online, and available to anyone, ECHO contains numerous inaccuracies and no assurance that these inaccuracies will be corrected. This situation could create harm to our corporate reputation since it points out noncompliance with environmental regulations, laws, and permit requirements that do not exist and gives inaccurate information about our facilities including name, permit numbers, SIC codes, and dates for permit renewals. With the amount of inaccurate information, our limited staffing (compared to regulated utilities) as an Independent Power Producer (IPP), and the deficiencies in the error reporting system, Mirant Corporation feels that correcting the errors would prove to be a significant undertaking for our company with no assurance that corrections would be resolved in a timely manner. Additionally, while waiting for EPA to accept our changes the incorrect information would be available to the public and could damage our company's reputation and impose an additional financial burden on our company in these difficult times for the IPP industry.

We take our responsibility for environmental compliance and protection seriously as outlined by our Environmental Policy – available on the internet at [Mirant.com](http://Mirant.com). Our policy states:

Compliance is the foundation of our environmental philosophy. In our operations – domestic and international – we will meet or exceed all applicable environmental laws and regulations.

Additionally, to preserve and enhance our reputation in the communities in which we operate and in which our employees and customers work and live we have made significant investments in environmental compliance technology and environmental projects that go well beyond regulatory requirements. Another stipulation of our Environmental Policy states:

We monitor and assess the environmental impact of our operations, and we are committed to measurable improvement in environmental performance. We seek opportunities to reduce emissions per kilowatt-hour and reduce consumption of natural resources through operational improvements and new and improved technologies that are consistent with operational and fiscal responsibilities.

These efforts and our commitment to the environment are not reported on ECHO and thereby give an incorrect and slanted view of our company that is inconsistent with our philosophy and our goal of a sustainable energy future for the United States.

Because of the inaccuracies within the system we are concerned that the ability to define the status of a facility as “in compliance” or as “out of compliance” rests totally with EPA and cannot be changed by the permitting agency. The status of “out of compliance” is sometimes given to a facility that in the past has received a notice of violation but currently is in compliance and has resolved the issue with the agency issuing the notice. This “out of compliance” status is given to facilities and remains until EPA takes action to change this designation.

Inaccuracies of a general nature that range over multiple Mirant Corporation facilities are as follows:

- Compliance status incorrect.
- Incorrect SIC codes.
- Incorrect dates for items of non-compliance which makes it difficult to verify correctness and submit corrections.
- Incorrect addresses for facilities.
- Listing a facility in non-compliance but not providing the reason why it was listed as such.
- Listing of facilities as significantly out of compliance for minor violations of permit limits.
- Several facilities not in database or listed incorrectly

Mirant Corporation is a global independent power producer with approximately 15,000 MW of generation in the U.S. Below are specific inaccuracies for some of our larger facilities representing approximately half of this generation, the remaining facilities typically having between one and three issues per facility:

❖ Chalk Point

- Incorrect facility name for Facility Registry System (FRS)
- Incorrect facility name for one item in Air Facility System (AFS) for Clean Air Act program
- Incorrect SIC code for AFS CAA minor permit
- CAA High Priority Violator (HPV) for 4 out of 8 previous quarters, however no events warrant this designation for more than 2 quarters
- CAA out of compliance for 8 out of 8 previous quarters, however no events warrant this designation
- RCRA out of compliance for 8 out of 8 previous quarters, however no events warrant this designation

❖ Morgantown

- Incorrect facility name for FRS

- Incorrect address for CWA permit
- CAA HPV, however no issues at facility would warrant this designation
- During most recent two quarters, facility is listed as HPV and having an unaddressed outstanding issue – no issues are currently outstanding
  
- ❖ Dickerson
  - CAA HPV for 7 of the last 8 quarters, however we believe that issue that occurred has been resolved during initial quarter.
  - CWA out of compliance for 6 of the last 8 quarters, however permit exceedances are incorrect in 5 of the 6 cases
  
- ❖ Potomac River
  - Incorrect facility name under the Permit Compliance System (PCS) for the Clean Water Act
  - CAA HPV for 2 out of 8 quarters, however no events warrant this designation
  - CAA out of compliance for 4 out of 8 quarters, however no events warrant this designation
  - CWA Significant NonCompliance (SNC) for 1 out of 8 quarters, however no events warrant this designation
  - CWA out of compliance for 4 out of 8 quarters, however no events warrant this designation
  - RCRA out of compliance for 8 out of 8 quarters, however no events warrant this designation
  
- ❖ Potrero
  - Incorrect facility name under the FRS
  - Incorrect facility name under the AFS
  - Incorrect SIC code for the CAA permits
  - Incorrect SIC code for the CWA permits
  - Incorrect NPDES permit expiration date
  
- ❖ Pittsburgh
  - Incorrect SIC code for the CAA permits
  - Incorrect SIC code for the CWA permits
  - RCRA out of compliance for 8 out of 8 quarters based on a financial responsibility requirement, however issue has been settled with the state and was not a compliance issue

In conclusion, Mirant Corporation understands EPA's effort to provide information to the public, however we believe that in its current form with significantly inaccurate

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information and the potential for harm and misuse of this information that ECHO should be shut down.

Thank you very much for allowing Mirant Corporation to comment on the ECHO website. If you have any questions related to these comments, please feel free to contact me at 678-579-7033 or at the address above.

Sincerely,

Michael L. Holmes  
Project Manager, Environmental Affairs  
Mirant Corporation